

AMENDED IN SENATE APRIL 25, 2005

**SENATE BILL**

**No. 530**

**Introduced by Senator Kehoe**

February 18, 2005

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An act to amend Section 791.12 of the Insurance Code, relating to underwriting.

LEGISLATIVE COUNSEL'S DIGEST

SB 530, as amended, Kehoe. Insurance: underwriting.

Existing law prohibits an insurance institution or agent from basing an adverse underwriting decision on specified events.

This bill would, in addition, prohibit an insurance institution or agent from basing an adverse underwriting decision on the fact that a holder of a valid real estate license has been the subject of ~~or has settled a claim alleging conduct within the scope of that license that violates specified provisions of law~~ *an incident that might give rise to a claim subjecting an errors and omissions insurer to an obligation to defend*, provided that certain conditions are met.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 791.12 of the Insurance Code is
- 2 amended to read:
- 3 791.12. No insurance institution or agent may base an adverse
- 4 underwriting decision in whole or in part on the following:
- 5 (a) On the fact of a previous adverse underwriting decision or
- 6 on the fact that an individual previously obtained insurance
- 7 coverage through a residual market mechanism; provided,

1 however, an insurance institution or agent may base an adverse  
2 underwriting decision on further information obtained from an  
3 insurance institution or agent responsible for a previous adverse  
4 underwriting decision. The further information, when requested,  
5 shall create a conclusive presumption that the information is  
6 necessary to perform the requesting insurer's function in  
7 connection with an insurance transaction involving the individual  
8 and, when reasonably available, shall be furnished the requesting  
9 insurer and the individual, if applicable.

10 (b) On personal information received from an  
11 insurance-support organization whose primary source of  
12 information is insurance institutions; provided, however, an  
13 insurance institution or agent may base an adverse underwriting  
14 decision on further personal information obtained as the result of  
15 information received from an insurance-support organization.

16 (c) On the fact that an individual has previously inquired and  
17 received information about the scope or nature of coverage under  
18 a residential fire or property insurance policy, if the information  
19 is received from an insurance-support organization whose  
20 primary source of information is insurance institutions and the  
21 inquiry did not result in the filing of a claim.

22 (d) On the fact that a holder of a valid real estate license issued  
23 pursuant to the Real Estate Law (Part 1 (commencing with  
24 Section 10000) of Division 4 of the Business and Professions  
25 Code) has been the subject of ~~or has settled a claim alleging~~  
26 ~~conduct within the scope of that license that violates the Real~~  
27 ~~Estate Law or any regulation adopted by the Real Estate~~  
28 ~~Commissioner. This subdivision shall apply only if the claim was~~  
29 ~~resolved within 60 days of receipt of notice of the claim by the~~  
30 ~~licensee and without cost to the licensee's insurer. an incident~~  
31 *that might give rise to a claim subjecting an errors and omissions*  
32 *insurer to an obligation to defend. This subdivision shall apply*  
33 *only if the following conditions are met:*

34 (1) *The incident does not result in a payment of indemnity or*  
35 *settlement by an insurer.*

36 (2) *The licensee has had no more than four other such*  
37 *incidents within the previous year.*

38 (3) *The incident is required by the policy to be reported to the*  
39 *insurer.*

- 1     (4) *The incident is resolved by the licensee within 60 days of*  
2     *the date that the obligation to report the incident arose.*

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